

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Robert Kwan, Presiding
Courtroom 1675 Calendar**

Tuesday, September 28, 2021

Hearing Room 1675

11:00 AM
2:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address: <https://cacb.zoomgov.com/j/1618891143>

ZoomGov meeting number: 161 889 1143

Password: 403061

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

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For more information on appearing before Judge Kwan by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Robert N. Kwan's Cases" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-robert-n-kwan> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect early so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Tentative Ruling:

- NONE LISTED -

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1:30 PM

2:11-33861 Rita Gail Farris-Ellison

Chapter 7

Adv#: 2:12-01830 Clark v. Farris-Ellison et al

#1.00 Status conference re: Complaint: 1) objecting to discharge 2) breach of contract
3) breach of implied covenant of good faith and fair dealing 4) conversion 5) negligence
6) breach of fiduciary duty 7) constructive fraud 8) fraudulent concealment 9) wrongful
foreclosure 10) interference with prospective economic advantage
fr. 6/21/21, 7/9/21, 7/15/21, 9/8/21

Docket 1

Tentative Ruling:

Updated tentative ruling as of 9/23/21. No tentative ruling on the merits.
Appearances are required on 9/28/21, but counsel and self-represented
parties must appear through Zoom for Government in accordance with the
court's remote appearance instructions.

Party Information

Attorney(s):

Deborah Bronner

Represented By
Deborah R Bronner

Debtor(s):

Rita Gail Farris-Ellison

Represented By
James Bryant

Defendant(s):

Rita Gail Farris-Ellison

Represented By
James Bryant

Just that EZ Financial

Pro Se

Lenders Escrow Inc

Pro Se

Does 1 Through 100 Inclusive

Pro Se

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CONT... Rita Gail Farris-Ellison

Chapter 7

Mediator(s):

David A. Gill

Pro Se

Plaintiff(s):

James Lee Clark

Represented By
Justin D Graham

Trustee(s):

Sam S Leslie (TR)

Represented By
Christian T Kim

Sam S Leslie (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1675

1:30 PM

2:11-33861 Rita Gail Farris-Ellison

Chapter 7

Adv#: 2:14-01088 Clark v. Farris-Ellison

#2.00 Status conference re: Creditor, James Lee Clark's complaint to determine nondischargeability of debtors/defendant's debt [Pursuant to 11 U.S.C. §523(a)(2); 11 U.S.C. §523(a)(6)]
fr. 6/21/21, 7/9/21, 7/15/21, 9/8/21

Docket 1

Tentative Ruling:

Updated tentative ruling as of 9/23/21. No tentative ruling on the merits. Appearances are required on 9/28/21, but counsel and self-represented parties must appear through Zoom for Government in accordance with the court's remote appearance instructions.

Party Information

Debtor(s):

Rita Gail Farris-Ellison

Represented By
James Bryant

Defendant(s):

Rita Gail Farris-Ellison

Pro Se

Plaintiff(s):

James Lee Clark

Pro Se

Trustee(s):

Sam S Leslie (TR)

Represented By
Christian T Kim

Sam S Leslie (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

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Chapter 7

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1:30 PM

2:20-15742 Sara Victoria

Chapter 7

Adv#: 2:20-01632 Adam, DC et al v. Victoria

#3.00 Cont'd status conference re: Complaint for determination of nondischargeability of debt pursuant to 11 U.S.C. §§523(a)(2)(A), 523(a)(4), and 523(a)(6) fr. 12/1/20, 6/15/21

Docket 1

***** VACATED *** REASON: Cont'd from 9/28/21 to 1/4/22 at 1:30 p.m.
per stip & order entered on 9/2/21-mb.**

Tentative Ruling:

Updated tentative ruling as of 9/7/21. Off calendar. Continued by stipulation and order to 1/4/22 at 1:30 p.m. No appearances are required on 9/28/21.

Prior tentative ruling. The court notes that in the adversary complaint plaintiffs demanded a jury trial, but there is no jury trial right for the claims under 11 U.S.C. 523(a)(2), (4) and (6) in this adversary proceeding since the debt dischargeability claims are equitable in nature. In re Hashemi, 104 F.3d 1122, 1124-1125 and n. 1 (9th Cir. 1997). The court also notes that the underlying alleged debts have not been liquidated yet, though plaintiffs have a pending action in state court, asserting state law tort claims against defendant, which action is now stayed due to the automatic stay arising from this bankruptcy case. Although the determination of claims, whether the alleged debts of defendant are dischargeable, is equitable, the determination of the existence of the alleged debts may be legal in nature since the alleged debts would arise in tort under state law, and it is an open question on that issue, and there may be a right to a jury trial. Id. at 1125 and n. 1. The issue of whether a partial right to jury trial exists here would have to be briefed. If there is a right to jury trial in part in this case, this bankruptcy court can hold a civil jury trial with the consent of the parties, or the parties could waive jury trial if there is such a right. Alternatively, the court could permissively abstain under 28 U.S.C. 1334(c)(1) and grant stay relief to allow the state court to determine the alleged debts under state law with or without the assistance of a civil jury, and stay this adversary proceeding until the state court determines the underlying debts, and then determine debt dischargeability afterwards. See In re Oroojian, Adv. No. 2:20-ap-01020 RK, 2020 WL 2201939 (Bankr.

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C.D. Cal., May 5, 2020); see also, In re Eber, 687 F.3d 1123, 1128 and n. 5 (9th Cir. 2012) (bankruptcy court has exclusive jurisdiction over debt dischargeability claims under 11 U.S.C. 523(a)(2), (4) and (6), citing 11 U.S.C. 523(c)).

Assuming that the court adopts its tentative ruling on defendant's motion to dismiss also on calendar on 12/1/20 and denies the motion, and the court does not abstain from determining the merits of the underlying alleged debts as discussed above, set a discovery cutoff date of 5/31/20 and a postdiscovery status conference on 6/15/21 at 1:30 p.m. with a joint status report due on 6/8/21. Plaintiffs to lodge a proposed scheduling order within 7 days of hearing.

Appearances are required on 12/1/20, but counsel and self-represented parties must appear by telephone. With the consent of the parties, the court can advance the hearing on defendant's motion to dismiss on the 2:30 p.m. hearing calendar to be conducted with the status conference.

TO PARTIES WHO INTEND TO APPEAR AT THE HEARING ON THIS MATTER:

PLEASE TAKE NOTICE that the court hearing before Judge Robert Kwan of the United States Bankruptcy Court for the Central District of California will be conducted telephonically. However, instead of having to physically appear in court, you must appear by telephone because the court is not conducting in person hearings on that date in light of the public health conditions from the COVID-19 pandemic. The courtroom will be locked; parties must appear by telephone and will not be permitted to appear in the courtroom.

In order to appear for the court hearing by telephone, you will need to arrange to make the telephone call through CourtCall, the contract telephone appearance service, which arranges telephone appearances before this court. CourtCall's telephone number is: (866) 582-6878. Through March 31, 2021, CourtCall is offering discounted rates to attorneys and FREE access for parties who do not have an attorney (pro se or self-represented parties). You need make an advance reservation with CourtCall to appear by telephone before the hearing, preferably a week before the hearing, and no later than

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the day before the hearing. After you made your telephone appearance reservation with CourtCall, on the day of the court hearing, you will need to call CourtCall at its telephone number at least 5 minutes before the scheduled hearing, and identify the United States Bankruptcy Court in Los Angeles as the court and Judge Robert Kwan as the judge, and the CourtCall operator will put you into the telephonic court hearing. Given the large demand for telephone court appearances, there may be some delay in connecting to the hearing. If you are having problems connecting to the hearing, please call and advise Judge Kwan's courtroom deputy at (213) 894-3385.

Party Information

Debtor(s):

Sara Victoria

Represented By
Freddie V Vega

Defendant(s):

Sara Victoria

Pro Se

Plaintiff(s):

Scott Adam, DC

Represented By
Aisha Shelton Adam
Kerry A. Moynihan

Adam Chiropractic and Wellness

Represented By
Aisha Shelton Adam
Kerry A. Moynihan

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1675

2:30 PM

2:19-10246 Dean Henrik Okland

Chapter 7

Adv#: 2:19-01102 Sunderland et al v. Okland

#4.00 Cont'd hearing re: Plaintiffs' motion for default judgment against defendant Dean Okland
fr. 7/27/21

Docket 106

Tentative Ruling:

Updated tentative ruling as of 9/23/21. No tentative ruling on the merits. Appearances are required on 9/28/21, but counsel and self-represented parties must appear through Zoom for Government in accordance with the court's remote appearance instructions.

Prior tentative ruling as of 7/23/21. Regarding plaintiffs' motion for default judgment, the court has the following concerns that need to be addressed. First, because the underlying debts have not been liquidated, the court will have to determine the underlying state law torts to support the claims of nondischargeability under 11 U.S.C. 523(a)(2)(A), (a)(4) and (a)(6). In re Bailey, 197 F.3d 997, 1000 (9th Cir. 1999). While the complaint alleges fraud, it does not specify the standard for fraud under appropriate state law, and the motion for default judgment does not contain any points and authority to set out the appropriate standard. Plaintiffs will have to set forth the appropriate legal standard under state law for their underlying fraud claims. Lu v. Liu (In re Liu), 282 B.R. 904, 907-908 (Bankr. C.D. Cal. 2002) (bankruptcy court has discretion to require a plaintiff to prove up entitlement to default judgment). The allegations in the complaint about false or fraudulent misrepresentations are vague and conclusory, and the statements in the Sunderland declaration and in the motion are unclear as to who made, and what were, the alleged misrepresentations (references are made to statements by "Seller, Dorfman, Okland and their real estate agent, Stacy Blaugrund," or by all or some of them together (if the statements are made by someone other than defendant, plaintiffs have not explained how such statements can be attributed to him for purposes of determining intent under 11 U.S.C. 523(a)(2)(A)). Second, assuming the debts are liquidated, plaintiffs do not show how each of the elements of claims under 11 U.S.C. 523(a)(2)(A), (a)(4) and (a)(6) is satisfied

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Dean Henrik Okland

Chapter 7

to establish that the debts are excepted from discharge. The elements are not discussed, and the evidence to support the existence of the elements is not identified. Third, the amount of damages claimed in the motion exceeds the amount alleged in the complaint of \$400,000. As a matter of fundamental fairness and due process of law, the amount awarded on default cannot exceed the prayer in the complaint. Federal Rule of Civil Procedure 54(c) ("A default judgment must not differ in kind from, or exceed in amount, what is demanded in the pleadings."); Fehrlhaber v. Fehrlhaber, 681 F.2d 1015, 1024-1025 (5th Cir. 1982). Strictly speaking, the prayer in the complaint demands damages of at least \$400,000, but this does not put defendant on notice of a specific amount exceeding \$400,000, but it would be fundamentally unfair to award more than what was specifically requested in the complaint. Plaintiffs can request leave to amend the complaint to seek a higher amount or be prepared to prove damages as alleged in the complaint of \$400,000. Fourth, the allegations in support of the claim for punitive damages are too vague and conclusory to establish what defendant did constitutes malice, fraud or oppression for purposes of California Civil Code § 3294. Fifth, plaintiffs have not established the existence of a contingency fee arrangement with their counsel in establishing their claims and have not otherwise shown that such a contingency fee would be a reasonable fee pursuant to the parties' contract for purposes of California Civil Code §1717 (i.e., no copy of the contingent fee arrangement is in the record).

Appearances are required on 7/27/21, but counsel and self-represented parties must appear through Zoom for Government in accordance with the court's remote appearance instructions.

Party Information

Debtor(s):

Dean Henrik Okland

Pro Se

Defendant(s):

Dean Henrik Okland

Represented By
Gary R Wallace

Plaintiff(s):

Jennifer Sunderland

Represented By

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Chapter 7

James Farrow

Kimberly Wright

Represented By
Kimberly Wright

HOWARD M EHRENBURG

Represented By
Jeffrey S Shinbrot

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Jeffrey S Shinbrot

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2:30 PM

2:19-10246 Dean Henrik Okland

Chapter 11

Adv#: 2:19-01102 Sunderland et al v. Okland

#5.00 Cont'd status conference re: Complaint for: (1)-(3) exception to discharge of certain debts [11 U.S.C. §§523(a)(2)(A),(4) and (6); (4)-(7) denial of discharge as to all debts [11 U.S.C. §§727(a)(2)-(5)]
fr. 3/30/21, 4/27/21, 7/27/21

Docket 1

Tentative Ruling:

Updated tentative ruling as of 9/23/21. No tentative ruling on the merits. Appearances are required on 9/28/21, but counsel and self-represented parties must appear through Zoom for Government in accordance with the court's remote appearance instructions.

Party Information

Debtor(s):

Dean Henrik Okland

Represented By
Matthew D. Resnik
Roksana D. Moradi-Brovia

Defendant(s):

Dean Henrik Okland

Represented By
Roksana D. Moradi-Brovia

Plaintiff(s):

Jennifer Sunderland

Represented By
Kimberly Wright

James Farrow

Represented By
Kimberly Wright

**United States Bankruptcy Court
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Hearing Room 1675

2:30 PM

2:19-22559 Eui Joon Park

Chapter 7

#6.00 Hearing re: First interim application for award of compensation and reimbursement of expenses of Danning, Gill, Israel & Krasnoff, LLP, as general counsel to chapter 7 trustee

Docket 41

***** VACATED *** REASON: Cont'd from 9/28/21 to 10/5/21 at 2:30 p.m.
per stip & order entered on 9/15/21-mb.**

Tentative Ruling:

Off calendar. Continued by stipulation and order to 10/5/21 at 2:30 p.m. No appearances are required on 9/28/21.

Party Information

Debtor(s):

Eui Joon Park

Represented By
Young K Chang

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Zev Shechtman
Michael G D'Alba

**United States Bankruptcy Court
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Hearing Room 1675

2:30 PM

2:20-11138 James Matthew Dorsey and Michelle Denise Dorsey

Chapter 7

#7.00 Hearing re: Motion to approve compromise re: Life Insurance Proceeds

Docket 83

Tentative Ruling:

No tentative ruling as of 9/23/21. No tentative ruling on the merits. Appearances are required on 9/28/21, but counsel and self-represented parties must appear through Zoom for Government in accordance with the court's remote appearance instructions.

Party Information

Debtor(s):

James Matthew Dorsey

Represented By
Raymond J Bulaon

Joint Debtor(s):

Michelle Denise Dorsey

Represented By
Raymond J Bulaon

Trustee(s):

Peter J Mastan (TR)

Represented By
D Edward Hays
Tinho Mang

**United States Bankruptcy Court
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Hearing Room 1675

2:30 PM

2:20-21080 Orchid Child Productions, LLC

Chapter 7

#8.00 Hearing re: Chapter 7 trustee's motion for order establishing sale procedures for sale of estates right, title and interest to certain property of the estate

Docket 42

***** VACATED *** REASON: Cont'd from 9/28/21 to 10/5/21 at 2:30 p.m.
per stip & order entered on 9/13/21-mb.**

Tentative Ruling:

Off calendar. Continued by stipulation and order to 10/5/21 at 2:30 p.m. No appearances are required on 9/28/21.

Party Information

Debtor(s):

Orchid Child Productions, LLC

Represented By
Sanaz Sarah Bereliani
David Brian Lally

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Gary E Klausner
Carmela Pagay